

HB473 ENROLLED



1 MZNC1W-3

2 By Representatives Givens, Holk-Jones, Fidler, Lomax, Gidley,
3 Simpson, Shirey, Lamb, Lovvorn, Marques, Baker, Clouse,
4 Blackshear, Crawford, Paramore, Wood (D), Wilcox, Harrison,
5 Bedsole, Butler, Robertson, Hammett, Pettus, Shaw, Sellers,
6 Yarbrough, Brown, Sorrells, Rehm, Stadthagen, Lipscomb,
7 Oliver, Paschal, DuBose, Shaver

8 RFD: Children and Senior Advocacy

9 First Read: 16-May-23

10 2023 Regular Session



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1 Enrolled, An Act,

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4 Relating to the surrender of infants; to amend
5 Sections 26-25-1, 26-25-2, 26-25-3, and 26-25-5, Code of
6 Alabama 1975, and to add Sections 26-25-1.1 and 26-25-1.2 to
7 the Code of Alabama 1975; to provide for the surrender of an
8 infant to an emergency medical services provider or a
9 hospital; to provide for the surrender of an infant in a baby
10 safety device that meets certain requirements; to authorize
11 the Department of Public Health to adopt rules relating to
12 baby safety devices; to provide for an investigation into
13 whether a surrendered infant is a missing child; to provide an
14 affirmative defense to certain charges to parents who
15 surrender an infant; to further provide for civil immunity for
16 emergency medical services providers who accept surrendered
17 infants; and to repeal Section 26-25-4, Code of Alabama 1975.

18 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

19 Section 1. Sections 26-25-1, 26-25-2, 26-25-3, and
20 26-25-5, Code of Alabama 1975, are amended to read as follows:

21 "§26-25-1

22 (a) For the purposes of this chapter, the following
23 terms have the following meanings:

24 (1) BABY SAFETY DEVICE. A device installed at an
25 emergency medical services provider pursuant to Section
26 26-25-1.2 for the purpose of permitting a parent to
27 anonymously surrender his or her infant.

28 (2) DEPARTMENT. The Department of ~~Public Health~~Human



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29 Resources.

30 (3) EMERGENCY MEDICAL SERVICES PROVIDER. All of the
31 following entities:

32 a. A licensed hospital, as defined in Section 22-21-20,
33 which operates an emergency department. This term does not
34 include either of the following:

35 1. ~~the~~The offices, clinics, surgeries, or treatment
36 facilities of private physicians or dentists.

37 2. Any individual licensed healthcare provider,
38 including a physician, dentist, nurse, physician assistant, or
39 any other health professional, ~~unless the individual~~
40 ~~voluntarily assumes responsibility for the custody of the~~
41 ~~child pursuant to subsection (c).~~

42 b. Any ~~state or local law enforcement agency, or fire~~
43 ~~station, or ambulance station,~~ provided that it is staffed 24
44 hours a day, seven days a week, 365 days a year with at least
45 one emergency medical services personnel, as defined by
46 Section 22-18-1.

47 (4) INFANT. A child 45 days old or younger.

48 (b) (1) An emergency medical services provider, without
49 a court order, shall take possession of ~~a child~~ an infant who
50 is ~~72 hours~~ 45 days old or younger ~~if the child is voluntarily~~
51 ~~delivered to the provider by the child's parent~~ in each of the
52 following circumstances:

53 a. The infant's parent delivers the infant to an
54 emergency medical services provider.

55 b. The infant's parent places the infant in a baby
56 safety device that meets the requirements of Section



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57 26-25-1.1, provided that~~and~~ the parent did not express an
58 intent to return for the~~child~~ infant.

59 c. The infant's parent delivers the infant to an
60 employee of an emergency medical services provider, provided
61 that the employee is responding to an emergency call from a
62 parent who expressed an intent to surrender and not return for
63 the infant.

64 (2) A parent who surrenders an infant pursuant to this
65 subsection may not be required to provide or asked to provide
66 any information relating to his or her identity. If the
67 identity of the parent is known by an emergency medical
68 services provider, he or she shall keep the identity
69 confidential.

70 ~~(b)~~ (3) An emergency medical services provider who takes
71 possession of~~a child~~ an infant under this section shall
72 perform any act necessary to protect the physical health or
73 safety of the~~child~~ infant. No court order or other legal
74 document shall be required in order for the emergency medical
75 services provider to take possession of an infant whose parent
76 surrenders custody under this act.

77 ~~(c) An individual health care provider, including a~~
78 ~~physician, dentist, nurse, physician assistant, or other~~
79 ~~health care professional who is not otherwise considered an~~
80 ~~emergency medical services provider under this chapter may~~
81 ~~voluntarily assumes responsibility for the custody of an~~
82 ~~infant surrendered at the health care provider pursuant to~~
83 ~~subdivision (b). If an individual voluntarily assumes~~
84 ~~responsibility for the custody of an infant pursuant to this~~



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85 ~~subdivision, he or she shall follow the procedures set forth~~
86 ~~in Section 26-25-2."~~

87 "§26-25-2

88 (a) No later than the close of the first business day
89 after the date on which an emergency medical services provider
90 takes possession of ~~a child~~ an infant pursuant to ~~Section~~
91 ~~26-25-1~~ this chapter, the provider shall notify the Department
92 of Human Resources that the emergency medical services
93 provider has taken possession of the ~~child~~ infant, and take
94 the infant to a licensed hospital for a medical evaluation.

95 (b) The department shall assume the care, control, and
96 ~~legal~~ custody of the ~~child~~ infant immediately on receipt of
97 notice pursuant to subsection (a). The department shall be
98 responsible for all medical and other costs associated with
99 the ~~child~~ infant and shall reimburse ~~the~~ any hospital or
100 emergency medical services provider for any costs incurred
101 prior to the ~~child~~ infant being placed in the care of the
102 department.

103 (c) Immediately after assuming legal custody of an
104 infant, the department shall contact the local law enforcement
105 agency in the municipality or county where the infant was
106 surrendered to determine whether the infant is a missing child
107 in this state or in another state, and the law enforcement
108 agency shall investigate whether the infant has been reported
109 as missing."

110 "§26-25-3

111 (a) It is an affirmative defense to prosecution under
112 Sections 13A-13-4, 13A-13-5, and 13A-13-6, if the parent



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113 voluntarily delivers the ~~child~~ infant to an emergency medical
114 services provider or a baby safety device pursuant to ~~Section~~
115 ~~26-25-1~~ this chapter.

116 (b) Nothing in this section shall prohibit the
117 prosecution or investigation of any allegations of abuse or
118 neglect of a surrendered infant."

119 "§26-25-5

120 Except as provided in Section 36-1-12, ~~No person or~~
121 ~~other entity~~ an emergency services provider or an employee or
122 agent of an emergency services provider subject to ~~the~~
123 ~~provisions of~~ this chapter shall be ~~liable to any person~~
124 immune from liability for any civil action ~~claim for damages~~
125 ~~as a result of arising out of~~ any action or omission taken
126 pursuant to the requirements of this chapter. ~~, and no lawsuit~~
127 ~~shall be predicated thereon."~~

128 Section 2. Sections 26-25-1.1 and 26-25-1.2 are added
129 to the Code of Alabama 1975, to read as follows:

130 §26-25-1.1

131 (a) A woman admitted to a hospital for purposes of
132 labor and delivery may surrender custody of her newborn
133 infant. If a woman expresses a desire to voluntarily surrender
134 custody of her newborn infant after birth, an emergency
135 medical services provider shall take possession of the infant,
136 without any further action by the woman, as if the infant had
137 been surrendered in the same manner as Section 26-25-1.

138 (b) A woman who surrenders a newborn infant pursuant to
139 this section is entitled to the legal protections of anonymity
140 guaranteed under this chapter. If the woman expresses a desire



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141 to remain anonymous, identifying information may be obtained
142 only for purposes of securing payment of labor and delivery
143 costs. If the birth mother is a minor, the hospital may use
144 the identifying information to secure payment through
145 Medicaid, but may not notify the minor's parent or guardian
146 without the minor's consent.

147 (c) Except as required by subsection (b), the identity
148 of a birth mother who surrenders her infant pursuant to this
149 section shall not be placed on the birth certificate or
150 disclosed to any other individual or entity, including state
151 and local agencies.

152 §26-25-1.2

153 (a) (1) An emergency services provider may install,
154 maintain, and monitor a baby safety device, provided that the
155 baby safety device meets all of the requirements of this
156 section. No other individual or entity, including any child
157 placing agency, that is not an emergency services provider may
158 install, maintain, or monitor a baby safety device.

159 (2) a. An emergency services provider may accept
160 donations or grants, and the Legislature may appropriate
161 funds, for the purpose of installing and maintaining a baby
162 safety device. If a specific donation or appropriation is made
163 to an emergency services provider for the purpose of
164 installing and maintaining a baby safety device pursuant to
165 this section, then the emergency services provider shall
166 install and maintain a baby safety device as required by this
167 section, to the extent that the funding allows it to do so. A
168 donor may not be involved in the installation, maintenance, or



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169 monitoring of a baby safety device.

170 b. An emergency services provider shall not be required
171 to install, maintain, or monitor a baby safety device if the
172 provider has not received funding under this subdivision.

173 (b) A baby safety device in this state shall be
174 installed by a general contractor licensed pursuant to Chapter
175 8 of Title 34 and shall meet all of the following criteria:

176 (1) Be designed to permit a parent to anonymously place
177 an infant in the device for purposes of surrendering the
178 infant.

179 (2) Be climate controlled.

180 (3) Be installed in a conspicuous location.

181 (4) Be equipped with a dual alarm system connected to
182 the physical location where the device is installed. The dual
183 alarm system shall trigger when an infant is placed into the
184 device, shall be visually inspected twice per day, and shall
185 be tested at least once per week.

186 (5) Have a supporting frame of the device that is
187 anchored to prevent movement of the unit as a whole.

188 (6) Be under 24-hour camera surveillance, provided that
189 the surveillance footage may only be viewed for purposes of
190 investigating alleged child abuse or neglect or other criminal
191 behavior related to the surrender of an infant to a baby
192 safety device.

193 (7) Meet any other requirements adopted by the
194 department.

195 (c) An emergency services provider shall take custody
196 of any infant surrendered in a baby safety device in the same



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197 manner as an infant surrendered pursuant to Section 26-25-1,
198 and shall follow the procedures provided in Section 26-25-2.

199 (d) (1) The Department of Public Health shall adopt
200 rules relating to the installation, maintenance, and
201 monitoring of a baby safety device including, but not limited
202 to, the following:

203 a. Rules providing for the purchase and installation of
204 a baby safety device, including designating from where an
205 emergency services provider may purchase a baby safety device.

206 b. Rules providing for the maintenance of a baby safety
207 device.

208 c. Rules providing for training of emergency services
209 providers with baby safety devices installed on its premises.

210 (2) Nothing in this chapter requires the Department of
211 Human Resources to monitor or regulate any baby safety device
212 installed in this state.

213 (e) Any emergency services provider that has a baby
214 safety device installed shall post signage at the site of the
215 device that clearly identifies the device and provides written
216 and pictorial directions to the surrendering individual
217 instructing him or her to open the access door, place the
218 infant inside the device, and close the access door to engage
219 the lock. The signage shall be approved by the Department of
220 Public Health and shall clearly indicate all of the following:

221 (1) That an infant surrendered in a baby safety device
222 may be no more than 45 days old.

223 (2) That by placing an infant in the baby safety
224 device, a parent is foregoing all parental responsibilities



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225 with respect to the infant and is giving consent for the state
226 to take custody of the infant.

227 (3) That damaging a baby safety device may constitute
228 the crime of criminal mischief.

229 Section 3. Section 26-25-4, Code of Alabama 1975,
230 relating to the term "emergency medical services provider," is
231 repealed.

232 Section 4. This act shall become effective on the first
233 day of the third month following its passage and approval by
234 the Governor, or its otherwise becoming law.



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Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in and was passed by the House 24-May-23, as amended.

John Treadwell
Clerk

Senate **01-Jun-23**

Passed

Senate **01-Jun-23**

Concurred in
Senate Amendment